IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 872 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

RAVJIBHAI VASAVA - Respondent(s)

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Appearance :

MR ASHISH M DAGLI for Petitioner(s) : 1,
MR JIGAR P RAVAL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 06/12/2005

ORAL JUDGMENT

1. This petition is directed against the award dated 31.5.2000 passed by the Labour Court, Baroda, in Reference No.259/93 whereby the petitioner was directed to reinstate the respondent workman with continuity of

service and with 50% back wages.

2. The short facts of the case are that the respondent was working as Driver with the petitioner Corporation. He remained absent without prior permission or intimation to higher officer for a period of about more than six months. Though he was addressed letters to join duty, he did not report for the duty. Therefore departmental proceedings were initiated against the respondent and after completion of inquiry he was dismissed from service. The respondent, therefore, raised a dispute which was referred to the Labour Court, Baroda, which passed the award as stated hereinabove.

3. Learned counsel for the petitioner submitted that the respondent was in the habit of remaining absent without any intimation or prior permission. He submitted that the Corporation waited for six months before instituting the inquiry. He therefore, submitted that the Labour Court has committed an error in granting reinstatement with 50% back wages.

4. Learned counsel for the respondent submitted that the Labour Court has considered all the facts and

circumstances of the case and passed the award in question. He further submitted that the Labour Court has awarded only 50% back wages and therefore, this Court may not interfere with the award.

5. As a result of the hearing and perusal of the record It is evident that the Labour Court has granted reinstatement in view of the fact that the order passed below Exh.12 whereby the Departmental Inquiry was held to be vague. However, I am of the view that in view of the fact that the respondent being a driver and has a weak eye sight,he should not have been granted reinstatement. At the most the Labour Court ought to have directed to give the respondent any other work except the post of driver. In any case by now the respondent has attained the age of superannuation. Therefore, I am of the view that interests of justice would be met if the respondent is treated as retired on the date of order of dismissal.

6. Accordingly it is directed that the respondent shall be treated as retired from service from the date of order of dismissal and the respondent shall be paid the consequential benefits accordingly within a period of six weeks from today. The award of the Labour Court is

substituted accordingly. Rule is made absolute with no order as to costs.

[K.S. JHAVERI, J.]

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